
A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the over-
2 representation of native Hawaiians in the criminal justice
3 system is an issue that has not been adequately addressed.

4 The legislature further finds that any racial or ethnic
5 disparity within the State's criminal justice system fosters
6 public mistrust of the system and impedes the State's ability to
7 promote public safety. A commitment to a fair criminal justice
8 system and a functioning democratic society requires the State
9 to address these existing racial and ethnic disparities.

10 According to recent studies, native Hawaiians account for
11 twenty per cent of the State's total population but forty per
12 cent of its prison population. Native Hawaiians average twenty-
13 three per cent of all arrests in the State and are twice as
14 likely to be incarcerated as any other group. In 1999, it was
15 reported that more than fifty per cent of the female population
16 and more than sixty per cent of the male population at the
17 Hawaii Youth Correctional Facility were native Hawaiian.

1 The high rates of incarceration have profound implications
2 for native Hawaiians. For example, almost sixty per cent of
3 children placed in child protective services are native
4 Hawaiian. Of those children, eight per cent to thirty-three per
5 cent have incarcerated parents. Studies suggest that adult
6 children of incarcerated mothers are two and one-half times more
7 likely to be incarcerated than adult children of incarcerated
8 fathers. Ninety-five per cent of the one hundred twenty female
9 Hawaii inmates incarcerated at a single mainland facility are
10 mothers.

11 Incarceration has many long-term effects including negative
12 impacts on health, family instability, diminished lifetime
13 wages, social stigma, and educational limitations. These
14 negative impacts result in higher rates of illness and death.

15 The purpose of this Act is to establish a task force,
16 within the office of Hawaiian affairs, on the disparate
17 treatment of native Hawaiians and other ethnic groups in the
18 State's criminal justice system.

19 SECTION 2. (a) There is established, within the office of
20 Hawaiian affairs for administrative purposes only, a task force
21 on the disparate treatment of native Hawaiians and other ethnic
22 groups in the State's criminal justice system. The task force

1 shall be comprised of eight members to be appointed without
2 regard to section 26-34, Hawaii Revised Statutes, as follows:

3 (1) The administrator of the office of Hawaiian affairs or
4 the administrator's designee;

5 (2) The director of public safety or the director's
6 designee;

7 (3) The chief justice of the judiciary or the chief
8 justice's designee;

9 (4) The dean of the William S. Richardson School of Law,
10 University of Hawaii at Manoa, or the dean's designee;

11 (5) The president of Alu Like, Inc., or the president's
12 designee;

13 (6) The president of the American Civil Liberties Union of
14 Hawaii or the president's designee;

15 (7) The executive director of the Justice Policy Institute
16 or the executive director's designee; and

17 (8) The president of the Queen Liliuokalani Children's
18 Center or the president's designee.

19 (b) The task force shall conduct a study on the disparate
20 treatment of native Hawaiians and other ethnic groups in the
21 State's criminal justice system, including but not limited to:

- 1 (1) Identifying the stages in the criminal justice system
2 with a disproportionate representation of native
3 Hawaiians and other ethnic groups. The stages shall
4 include the:
- 5 (A) Entry point, whether emergency call or arrest;
6 (B) Court processes, including court appearances,
7 prosecutorial review, plea bargains, and
8 sentencing; and
9 (C) Exit from incarceration, including parole,
10 probation, and recidivism rates;
- 11 (2) Assessing the decision points in the stages identified
12 to determine where disparities occur;
- 13 (3) Identifying the cause for the disparities and the
14 extent to which they are related to legitimate public
15 safety objectives, including sentencing policies, drug
16 laws and policies, and the availability of appropriate
17 intervention and treatment options; and
- 18 (4) Identifying methods of recidivism prevention and
19 facilitating offenders' successful reentry into the
20 community.
- 21 (c) In carrying out its duties under this Act, the task
22 force on the disparate treatment of native Hawaiians and other

1 ethnic groups in the State's criminal justice system may request
2 staff assistance from the office of Hawaiian affairs and other
3 appropriate state departments or agencies. The task force may
4 contract with or hire a private consultant, who shall be exempt
5 from chapters 76, 78, and 89, Hawaii Revised Statutes, or a
6 consulting firm to assist the task force in performing its
7 duties as provided in this Act.

8 (d) The task force shall be exempt from chapter 92, Hawaii
9 Revised Statutes; provided that the task force shall make a good
10 faith effort to make its proceedings and work products
11 accessible and available to the general public in a manner
12 consistent with the intent of chapter 92, Hawaii Revised
13 Statutes.

14 (e) The task force shall be exempt from the requirements
15 of chapter 103D, Hawaii Revised Statutes.

16 (f) Members of the task force shall serve without
17 compensation but shall be reimbursed for expenses, including
18 travel expenses, necessary for the performance of their duties.

19 (g) The task force shall submit a report of its findings
20 and recommendations, including any proposed legislation, to the
21 legislature no later than twenty days prior to the convening of
22 the regular session of 2010.

1 SECTION 3. The department of public safety, the judiciary,
2 the Hawaii criminal justice data center, and any other state
3 agency as requested are directed to cooperate with the task
4 force in its research.

5 SECTION 4. This Act shall take effect upon its approval.

Report Title:

Public Safety; Task Force; Study of Disparate Treatment; Native
Hawaiians

Description:

Establishes a task force within the office of Hawaiian affairs
to study the disparate treatment of native Hawaiians and other
ethnic groups in the State's criminal justice system. (SD2)